The Aarhus Convention and Biosafety

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Overview

• What is the Aarhus Convention?

• What is its relevance for biosafety?
What is the Aarhus Convention?

• Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters
• Three pillars: information, participation, justice
• Entered force in 30 October 2001, now has 46 Parties: 45 countries and the European Union
• Parties adopted Lucca Guidelines on GMOs in 2002, still a useful tool
• Protocol on pollutant release and transfer register (PRTR), 2003
• Amendment on public participation in GMO decisions adopted in May 2005, not yet in force.
Lucca Guidelines on GMO

- Non-binding examples of good practice
- Most far-reaching and detailed instrument on GMOs e.g. covers contained use as well as deliberate release and placing on the market
- Still a valuable guidance tool
What is the Aarhus Convention?

- Most far-reaching international treaty on environment and human rights
- Human Rights nature “the Door to Democracy”
- Obligations mainly fall on public authorities
- Rights are owed to the public, or the public concerned
- First international environmental treaty to allow members of the public to bring cases before the compliance mechanism
Relevance to Biosafety

- Expressly covers information and decisions on GMOs
- Neither for or against GMOs
- PP cover deliberate release of GMOs into the environment
- Aarhus Clearinghouse, which also contains biosafety related materials.
How does the Aarhus Convention work?

- Requires Parties to provide access to information, public participation and access to justice to the public regarding the environment.
- Obliges the Parties to create a legislative and administrative framework to provide A2I, PP and A2J.
- Definitions: public, public authorities.
First pillar: A2I

Right of access to information

• Has two sides: active and passive:
  • Public has right to environmental information upon request
  • Obligation on Parties to collect and disseminate environmental information, including on GMOs

• Environmental information widely defined
  • Includes (among other things) any information in any form on the state of elements of the environment, eg air, atmosphere, water, soil, land, landscape and natural sites, biological diversity, including genetically modified organisms, and the interaction between these elements.
A2I on GMOs on request

• Requirements:
  • Without interest having to be stated
  • In form requested
  • As soon as possible or at latest within one month
  • Reasonable charges published beforehand
  • Limited grounds for refusal to be interpreted in a restrictive way
  • Refusal to be in writing if request was in writing or if applicant so requests
  • Refusal must give reasons and information on review procedure
Active information obligation:  
To collect and disseminate environmental information

Parties must ensure that:  
• Public authorities have up-to-date environmental information relevant to their functions

• Systems are established to ensure an adequate flow of information to public authorities about proposed and existing activities which may significantly affect the environment

• Publicly accessible lists and registers are in place

• **Also product information:**
  Parties must develop mechanisms to ensure that sufficient product information is available for consumers to make informed environmental choices.

• **Encourages** to use Internet and other electronic media for this purpose
Pillar 2: PP

Parties insure public participation in

• decisions on whether to permit proposed activities that may have a significant effect on the environment listed in the Annex to the Convention

• plans and programmes relating to the environment

• executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment
PP in decisions on specific activities

• The public is informed, **early** in an environmental decision-making procedure (when all options are open)
• in an **adequate, timely and effective** manner
• participation procedures shall include reasonable **time-frames** for informing the public and for the public **to prepare and participate effectively**
• Provide **access to all information** relevant to the decision-making for examination free of charge
• Procedures allow the public to submit **any comments**, information, analyses or opinions that it considers relevant to the proposed activity.
• **due account** is taken of the outcome of the PP
• the text of the decision along with the reasons and considerations on which the decision is based are made **publicly accessible**
Each Party shall, within the framework of its national law, apply, to extent feasible and appropriate, provisions of this article to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.
Pillar 3: Access to Justice

• For a refused request for information

• For impairment of a right provided under the national law regarding public participation in decisions on deliberate release covered by art 6(11) – but not regarding decisions covered by GMO amendment.

• To challenge an act or omission by private persons or public authorities which contravenes national environmental law
Thank you!

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